

UNIVERSITY OF COLOMBO, SRI LANKA

FAULTY OF LAW

BACHELOR OF LAWS (REPEAT) EXAMINATION, YEAR-1, ~~2018~~ 2019

CRIMINAL LAW

(Three Hours)

Total number of questions: 07

Answer any **FOUR** Questions and no more.

(Candidates will be penalized for illegible handwriting.)

1. 'The maxim *'actus non facit reum nisi mens sit rea'* indicates the position that a person can be convicted for a criminal offence when he/she commits the prohibited act in a penal statute only with a guilty mind. However, considering the utmost interest of the society, today's criminal law regime recognizes various exceptions to the maxim.'

Discuss. Support your answer with relevant statutory and case law authorities.

2. (a) Gamini and Sunil have had strained relationship for some time. Gamini has told his friend Bandara that he will teach a good lesson to Sunil at the appropriate moment. On a Sunday evening, Sunil was returning home with his wife in his car from a supermarket, and Gamini was waiting at the bend of the road near the house of the former. When the vehicle slowed down, Gamini fired at Sunil but it missed the target and hit the tyre causing it to burst. Due to the consequential collision, Sunil's wife was killed on the spot.

Discuss the criminal liability of Gamini.

- (b) Daniel, with the help of his two friends, attempts to rob a petrol station in the night using an imitation gun. Seeing the gunman approaching cash counter, the cashier who is a young and healthy person and being protected behind the bullet-proof glass, dies of a heart attack.

Discuss the legal issues involved in the above situation.

3. (a) Ruwan was spotted stealthily entering into the girls' hostel of a school through its backyard. When a patrolling police turned the head-light of his bike towards him, Ruwan started to run. Although the police failed to catch him they found a rucksack he left behind near the unlit area of the backyard. The bag contained a large kitchen knife, some lengths of rope, and a roll of masking tape. With the help of the road side CCTV, Ruwan was identified and arrested after three days of the incident.

Has Ruwan committed any offence? If so, what is the nature of the offence for which he could be prosecuted? Cite authorities.

- (b) Kesavan intending to plant a bomb at a tourist hotel in the capital city went to the hotel carrying his backpack. Inside a washroom situated near the front side of the entrance of the hotel, he started connecting wires to the trigger of the bomb and was about to leave the hotel. When he came out of the washroom he saw his favourite actress Sonali entering the hotel with a group of small children. They were involved in a programme to be filmed for the promotion of welfare of the abandoned and orphan children in the country.

On seeing them, changing his mind because of his admiration of the actress and love of children, Kesavan rushed back to the washroom and started defusing the bomb. He did not take back the bag but went away. However, after two days, he was arrested by the anti-terrorist squad of the country and charged with several terrorist offences.

His Counsel argues that he has not committed any offence and as such the arrest and detention is totally unlawful and unwarranted.

Has Kesavan committed any offence under the Penal Code of Sri Lanka? Discuss.

4. It is argued that in light of the prominent place given to individual liberty in the legal regime of the country today, attributing common intention to all those who participated in

the commission of the same offence without any consideration as to their actual role in committing the offence is considered as unfair and therefore needs to be rectified.

Do you agree? Give reasons for your answer.

5. (a) Kamal intending to permanently disfigure the face of his former fiancée, Ramani, throws a pot of hot water on her face. However, as she suddenly turns her face to the left side, her right side eye gets burnt due to the thrown water.

What is the offence committed by Kamal? Give reasons for your answer.

- (b) Compare and contrast wrongful restraint and wrongful confinement citing case law authority.

6. Mala and Ramesh became friends at the Colombo University. During the semester vacation, Ramesh invited Mala to visit his home town where he wanted to introduce her to his old pals. Under the pretext of going on a study tour, getting permission from her parents, Mala embarked upon the trip. She arrived the nearest small town in the late evening and was received by Ramesh at the bus station. They had to travel further ten Kilometers to reach his home town. Since it was dark, he convinced Mala that they stay in a nearby lodge in the town and proceed to the village in the following morning. Mala readily agreed.

They stayed in the same room and shared their meals supplied by the lodge maids. After the meals, feeling dizzy, Mala told Ramesh that due to the long journey she was terribly tired and wanted to go to bed immediately. However, Ramesh wanted her to be awake. Defying Ramesh's request, she went to bed grabbing her bed-sheet from Ramesh's hands. When she got up in the morning, she felt severe body pain and found blood stains on her legs. Also, Mala could not locate the bed-sheet that she had brought from home.

On being questioned by her, Ramesh maintains innocence. She suspects that she was drugged while partaking the dinner in the previous night. When she returned home and complained to her parents, they jointly lodged a complaint with the police.

During investigations, Ramesh admitted to the police that he had sexual intercourse with Mala on the fateful day but with her full consent.

What are the legal issues involved in the above situation? Would your answer be different if Mala is a school girl and Ramesh is her Facebook friend?

7. Although the defence of unsoundness of mind of the accused person has been developed in English law to cover a wide range of mental disorder/disturbance situations of a person, in Sri Lanka the defence is a mere reflection of an age old *Mc Naughten* Rules which deprive many accused persons from claiming the defence.

Discuss the above statement with the support of relevant statutory provisions of England and Sri Lanka. Support your answer with decided cases.
